

REMARKS

In response to the office action dated November 3, 2004, applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 1, 3-19, 21, 22 and 27-39 were rejected in the office action. No claims have been amended, canceled or added. Therefore, following entry of the present response, claims 1, 3-19, 21, 22 and 27-39 will remain pending in the present application.

Claims 1, 4-6, 8-14, 16-17, 19, 22, 27-30 and 32-34 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,978,673 to Alperovich *et al.* ("Alperovich") in view of U.S. Patent 6,363,248 to Silverman ("Silverman"). Claims 3, 15, and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich and Silverman in view U.S. Patent No. 6,584,316 to Akhterruzzaman ("Akhterruzzaman"). Claims 7, 18, 21, 35-36, and 38-39 were rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich and Silverman in view of U.S. Patent No. 6,705,916 to Roberts ("Roberts").

Briefly, according to exemplary embodiment, location-based forwarding of communications are provided for. In one embodiment, a telephone call is received from a calling party to a called party and a location of the called party is determined. A proximity of the location of the called party to one or more subscriber locations is determined, and the telephone call is directed to one or more subscriber locations based on the determined proximity. The location of the called party may be determined using a global positioning system and/or a radio frequency signal, for example. Also, the telephone call may be forwarded to a wireless communication device, a voice mail system, or another user, based on the determined proximity.

According to exemplary embodiments, the subscriber locations are identified independent of any prior determination. Thus, a call may be forwarded to a number without requiring that the number be preregistered by a party, for example.

For example, independent claims 1, 12 and 27 recite that the subscriber locations are identified independent of any prior predetermination.

As the office action itself notes, "Alperovich does not specifically teach determining a proximity of the location of the called party to one or more subscriber locations, the

subscriber locations identified independent of the called party predetermination.” (*Office Action dated November 3, 2004* at p. 2.). However, the office action suggests that “Silverman teaches determining a proximity of the location of the called party to one or more subscriber locations, the subscriber locations identified independent of called party predetermination.” (*Office Action dated November 3, 2004* at p. 2.) With all due respect to the contentions in the office action, applicant respectfully disagrees.

Silverman does not, in fact, teach forwarding a call to locations that are identified **independent** of called party predetermination. Quite the contrary, Silverman identifies its forwarded sites as being “**related** alternate communication devices.” (*Silverman* — column 5, lines 41-42) (emphasis added). This description of the forwarded locations as being predetermined or “related” is consistent with the discussion throughout Silverman.

In particular, Silverman describes the process of “handing off” a cell phone device as it moves from one cell site to another. As Silverman discusses throughout, when a cell phone device (for example moving in an automobile) moves from one cell site to another, the cell phone registers with the nearest cell site. As a result, when an incoming call is directed to the cell phone device, the call is processed by the cell site to which the cell phone last registered. This process is repeated as the cell phone moves through various cell sites. This is a common practice for cell phone communication, well known to those skilled in the art.

In addition, Silverman describes a process of directing an incoming call to an “alternate communication device” when the cell phone is “not available.” Such unavailability may be due to the cell phone being turned off or being outside the range of any of the available cell sites. Under these circumstances, Silverman discusses forwarding the incoming call to an “alternate communication device.” However, contrary to the contention in the office action, Silverman’s “alternate communication device” is not identified “independent of called party predetermination,” as recited in the present claims. Instead, Silverman describes the “alternate communication device” as being a communication device that is “mapped to the most recent active cell site” of the called party. (*Silverman* — Abstract) This mapping is clearly illustrated in Silverman’s Table 1, which shows a predetermined list of alternate communication devices mapped to their respective nearest cell sites. (*Silverman* — column 3, lines 28-42)

In other words, in Silverman, the call is forwarded to a predetermined communication device that is based on a mapping of the location of the called party. This type of predetermination is precisely that which is avoided according to exemplary embodiments.

Accordingly, because Silverman fails to make up for the deficiencies of Alperovich, independent claims 1, 12, and 27 are considered allowable over any combination of these patents. In addition, claims 3-11, 13-22, and 28-34 depend from claims 1, 12, and 17, respectively, and are considered allowable for at least the same reasons.

With regard to claims 3, 15, and 31, the office action relies on Akhterruzzaman for the features missing from Alperovich and Silverman. With regard to claims 7, 18, and 21, the office action relies on Roberts for the features missing from Alperovich and Silverman. Neither Akhterruzzaman nor Roberts make up for the deficiencies of independent claims 1 and 12 as pointed out above. Therefore, claims 3, 7, 15, 18, and 21 are considered allowable over any combination of these patents.

Likewise, applicant respectfully traverses the 35 U.S.C. 103(a) rejection of claims 35-36 and 38-39 over Alperovich in view of Silverman and Roberts.

According to further embodiments, a method is provided for location-based forwarding of a communication directed to a wire line of a called party. Briefly, in one embodiment, when a communication is received, the location of the called party is determined, and the communication is forwarded based on the proximity of the called-party to subscriber locations. For a communication directed to a *wire line* of a called party, the communication may be forwarded to subscriber locations that have been predetermined by the called party. (*Specification* — page 25, lines 5-16).

Claim 35, for example, recites a method of forwarding a telephone call comprising receiving a telephone call from a calling party line to a called party wire line, determining a location of the called party, determining a proximity of said location of the called party to one or more subscriber locations, and directing said telephone call to said one or more subscriber locations based on said determined proximity. The office action contends that Roberts teaches receiving a telephone call to a called party wired line, and that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include receiving a telephone call to a called party wired line, determining a proximity of the location of the called party to one or more subscriber locations, and directing

the telephone call to the one or more subscriber locations based on the determined proximity because this would allow for an improved location based call forwarding service that works transparently to the subscriber.” (*Office Action dated November 3, 2004* at p. 8).

With all due respect to the contentions in the office action, applicant certainly acknowledges that Roberts merely teaches that a telephone call may be directed to a called party wired line. Of course, this sort of teaching has existed for as long as telephone communications have existed. However, applicant respectfully asserts that the combination of Roberts with Alperovich and Silverman is not, by itself, sufficient to establish a prima facie case of obviousness. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *MPEP 2143*. The office action argues that merely because the references can be modified, the combination of the references renders the instant claims obvious.

The office action has not pointed to any suggestion in the prior art regarding a desirability to modify and combine the references. The office action states that it would have been obvious to modify Alperovich and Silverman by receiving a telephone call at a called party wired line as taught by Roberts because it would “have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include receiving a telephone call to a called party wired line.” (*Office Action dated November 3, 2004* at p. 8).

The quoted statement in the office action may be true. However, there is no suggestion that it would be desirable to modify Alperovich or Silverman by combining it with Roberts to meet the features recited in claim 35. Applicant asserts that without support or an explanation as to why it would have been desirable to combine Alperovich, Silverman or Roberts to meet the presently claimed features, the office action’s assertion of obviousness amounts to nothing more than impermissible hindsight using the applicant’s claimed subject matter. While assuming that impermissible hindsight reconstruction may lead to such a construction, 35 U.S.C. § 103 requires a higher standard. 35 U.S.C. § 103 requires a specific suggestion or motivation suggested in the prior art to modify the reference or to combine reference teachings. *MPEP 2143*. Neither Alperovich, Silverman or Roberts provide specific guidance that would lead one of ordinary skill in the art to combine the references as

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suggested. Specifically, Roberts simply is directed to the receiving a telephone call at a called party wired line.

Therefore, claim 35 is considered allowable. Claims 36-39 depend from claim 35 and are considered allowable for at least the same reasons.

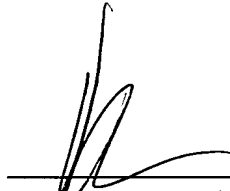
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CONCLUSION

In view of the foregoing, applicant respectfully submits that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact the undersigned attorney, Vincent J. Roccia, at (215) 564,8946, to discuss resolution of any remaining issues.

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Vincent J. Roccia
Registration No. 43,88

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439